



Ralph E. Jocke

Patent
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02/03/05

Walker & Jocke a legal professional association

February 1, 2005

Mail Stop Appeal Brief - Patents
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Re: **Application Serial No.:** 09/778,604
Confirmation No.: 4603
Appellants: Paul Magee, et al.
Title: Automated Financial Transaction Apparatus
With Interface That Adjusts To The User
Docket No.: D-1131 R

Sir:

Appellants request reinstatement of their appeal. Enclosed is a 2nd Supplemental Appeal Brief pursuant to 37 C.F.R. § 1.192 in response to the Action dated September 8, 2004 for filing in the above-referenced application.

A fee (\$330) has already been paid for a previously filed Appeal Brief. Therefore, please charge the fee for this 2nd Supplemental Appeal Brief filing (\$170) and any other fee due to Deposit Account 09-0428.

Adjustment Date: 02/04/2005 HANDED
12/22/2003 HANDED 00000072 090428 09778604
01 FC:1402 330.00 CR

Very truly yours,

Ralph E. Jocke
Reg. No. 31,029

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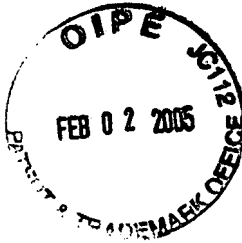
330 • 721 • 0000
MEDINA

330 • 225 • 1669
CLEVELAND

Ralph E. Jocke
330 • 722 • 6446
FACSIMILE

rej@walkerandjocke.com
E-MAIL

231 South Broadway, Medina, Ohio U.S.A. 44256-2601



D-1131 R

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of)
Paul Magee, et al.)
Application No.: 09/778,604) Art Unit 3624
Confirmation No.: 4603)
Filed: February 7, 2001) Patent Examiner
Ella Colbert
Title: Automated Financial Transaction)
Apparatus With Interface That)
Adjusts To The User)

Mail Stop Appeal Brief - Patents
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

**SECOND SUPPLEMENTAL BRIEF OF APPELLANTS
PURSUANT TO 37 C.F.R. § 41.37**

Sir:

The Appellants hereby respectfully request reinstatement of their appeal. The Appellants hereby submit their 2nd Supplemental Appeal Brief pursuant to 37 C.F.R. § 41.37 concerning the above-referenced Application. This 2nd Supplemental Appeal Brief is in response to the Office

Action dated September 8, 2004.

Adjustment date: 02/04/2005 MAHME1
12/22/2003 MDANTE1 00000072 090428 09778604
01 FC:1402 330.00 CR

02/04/2005 MAHME1 00000055 090428 09778604

01 FC:1402 500.00 DA

(i)

REAL PARTY IN INTEREST

The Assignee of all right, title and interest to the above-referenced Application is
Diebold, Incorporated, an Ohio corporation.

(ii) RELATED APPEALS AND INTERFERENCES

Appellants, Appellants' legal representative, and assignee believe that there are no related appeals or interferences pertaining to this matter.

(iii)

STATUS OF CLAIMS

Claims 1-43 are pending in the Application.

Claims rejected: 1-43

Claims allowed: none

Claims confirmed: none

Claims withdrawn: none

Claim objected to: 15

Claims canceled: none

Appellants appeal the rejections of claims 1-43, inclusive. These rejections were the only rejections present in the Office Action ("Action") dated September 8, 2004. The objection to claim 15 has been responded to separately in a paper filed December 4, 2004.

(iv)

STATUS OF AMENDMENTS

No final rejection is pending. Therefore, no amendments to the claims were requested to be admitted after a final rejection.

The following dates and papers are associated with this application:

- | | | |
|----|----------|-------------------------|
| 1. | 4/9/03 | 1st Non-final Rejection |
| 2. | 6/20/03 | Response |
| 3. | 7/18/03 | 2nd Non-final Rejection |
| 4. | 12/16/03 | 1st Appeal Brief |
| 5. | 3/3/04 | 3rd Non-final Rejection |
| 6. | 6/1/04 | 2nd Appeal Brief |
| 7. | 9/8/04 | 4th Non-final Rejection |
| 8. | current | 3rd Appeal Brief |

This application has received continued reopening of prosecution, including four non-final rejections. As factually evidenced by the prosecution history, the Office's propensity to continuously prosecute this application is not in conformance with the Office's normal and expected examining procedures, especially with regard to "compact prosecution."

The repeated imposition of new grounds of rejection by the Office in an effort to deny Appellants judicial review of the refusal to grant their application constitutes an abuse of agency authority. Such actions violate the Administrative Procedures Act, 5 U.S.C. § 701 *et seq.* Such agency action also violates the fundamental legal principle that an administrative agency may not

avoid review of its actions by engaging in repetitive activity which does not remain in place long enough to enable judicial review. *Southern Pacific Terminal Co. v. Interstate Commerce Com.*, 219 U.S. 498, 55 L.Ed. 310, 31 S. Cr. 279 (1911). Should the Office again reopen prosecution, such action will be viewed as intended arbitrary and capricious action and evidence of willful or wanton misconduct against Appellants.

Additional Comments

The Action dated September 8, 2004 attempted to reopen prosecution without approval by a Supervisory Patent Examiner. Both the Examiner and the Examiner's Supervisor were personally notified (during respective phone conversations) of the legally insufficient attempt to reopen prosecution. Appellants also notified the Office in writing (in the letter dated November 22, 2004) regarding the improper attempt to reopen prosecution. Unfortunately, as of this writing the Office still has not responded to Appellants' request of November 22, 2004. The Office's disregard of the request is merely reflective of the impropriety of all the rejections in the Action.

As shown in more detail herein, Appellants' claims are also allowable over the asserted new grounds of rejection. Thus, Appellants respectfully request reinstatement of their appeal.

(v) SUMMARY OF CLAIMED SUBJECT MATTER

Concise explanations of exemplary forms of the claimed invention:

With respect to independent claim 1

An exemplary form of the invention is directed to a method. The method comprises storing data in at least one data store (114) (page 19, line 3; Figure 2) in operative connection with at least one computer (62) (page 13, line 13; Figure 2). The data corresponds to at least one characteristic feature and at least one interface parameter for each one of a plurality of users. The method further comprises sensing with a reading device (18, 42) (page 10, line 3; page 11, line 13; Figure 2) at least one characteristic feature of a user adjacent to an automated financial transaction apparatus (10) (page 11, line 13; Figure 2). Using the data store (114) to determine at least one interface parameter associated with the at least one characteristic feature for that user. Responsive to the at least one interface parameter, moving (responsive to operation of the computer) a display screen (14) (page 9, line 17; Figure 2) of the automated financial transaction apparatus with a moving device (80, 82) (page 14, line 19; Figure 2).

With respect to independent claim 32

Another exemplary form of the invention is directed to an automated financial transaction apparatus. Support in the disclosure for like reference numerals has previously been provided. The apparatus (10) comprises a reading device (18, 42) operative to sense at least one characteristic feature usable to identify a user. A movement mechanism (80, 82) is in operative connection with a movably mounted display screen (14). At least one computer (62) is in operative connection with at least one data store (114), the reading device (18, 42), and the

movement mechanism (80, 82). The data store (114) includes data corresponding to at least one characteristic feature and an associated at least one interface parameter for each of a plurality of users. Responsive to the reading device (18, 42) sensing at least one characteristic feature of a first user among the plurality of users, and responsive to at least one interface parameter being associated (via the data store) with the first user, the computer (62) is operative to cause the movement mechanism (80, 82) to move the display screen (14).

With respect to independent claim 37

Another exemplary form of the invention is directed to an automated financial transaction apparatus. Support in the disclosure for like reference numerals has previously been provided. The apparatus (10) comprises a reading device (18, 42) operative to sense at least one characteristic feature associated with each of a plurality of users. A movement mechanism (80, 82) is in operative connection with a movably mounted display screen (14). A computer (62) is in operative connection with a data store (114), the reading device (18, 42), and the movement mechanism (80, 82). The data store (114) includes data corresponding to a plurality of characteristic features, where at least one of the characteristic features corresponds to at least one of the plurality of users. The data store (114) includes for each one of the characteristic features at least one associated interface parameter that corresponds to a position of the display screen (14). The computer (62) is operative, responsive to the reading device (18, 42) sensing a first characteristic feature corresponding to one of the plurality of users, to cause the movement mechanism (80, 82) to move the display screen (14) to a position corresponding to the interface parameter associated in the data store (114) with the first characteristic feature.

With respect to independent claim 38

Another exemplary form of the invention is directed to an automated financial transaction apparatus. Support in the disclosure for like reference numerals has previously been provided. The apparatus (10) comprises a display screen (14) and a device (18, 42) operative to receive data indicative of at least one characteristic feature corresponding to a user. The apparatus (10) further comprises at least one computer (62) in operative connection with at least one data store (114). The data store (114) includes data representative of a plurality of characteristic features, and for each characteristic feature, a corresponding user and at least one interface parameter. The computer (62) is operative, responsive to the device (18, 42) receiving data indicative of at least one first user characteristic feature, to determine data corresponding to a first user and at least one first user interface parameter, and to cause the display screen (14) to selectively either operate or not operate responsive to the at least one first user interface parameter.

(vi) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The questions presented in this appeal are:

- 1). Whether claim 1 is unpatentable pursuant to 35 U.S.C. § 102(b) as being anticipated by Drummond, et al. (WO 98/24041) (hereinafter "Drummond").
- 2). Whether claims 2-23 are unpatentable pursuant to 35 U.S.C. § 103(a) over Drummond in view of Blumstein, et al. (US Patent 5,589,855) (hereinafter "Blumstein").
- 3). Whether claims 24-31 are unpatentable pursuant to 35 U.S.C. § 103(a) over Drummond in view of Blumstein and Ramachandran, et al. (US Patent 6,023,688) (hereinafter "Ramachandran").
- 4). Whether claims 32 and 37-43 are unpatentable pursuant to 35 U.S.C. § 103(a) over Ramachandran.
- 5). Whether claims 33-36 are unpatentable pursuant to 35 U.S.C. § 103(a) over Ramachandran in view of Drummond.

Additional Comment

Appellants respectfully request that Ramachandran (US Patent 6,023,688) be made of record on form PTO-892.

(vii)

ARGUMENT

The 35 U.S.C. § 102(b) Rejection

The Applicable Legal Standards

Anticipation pursuant to 35 U.S.C. § 102 requires that a single prior art reference contain all the elements of the claimed invention arranged in the manner recited in the claim. *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 1548, 220 USPQ 193, 198 (Fed. Cir. 1983).

Anticipation under 35 U.S.C. § 102 requires in a single prior art disclosure, each and every element of the claimed invention arranged in a manner such that the reference would literally infringe the claims at issue if made later in time. *Lewmar Marine, Inc. v. Barient, Inc.*, 822 F.2d 744, 747, 3 USPQ2d 1766, 1768 (Fed. Cir. 1987).

Anticipation by inherency requires that the Patent Office establish that persons skilled in the art would recognize that the missing element is necessarily present in the reference. To establish inherency the Office must prove through citation to prior art that the feature alleged to be inherent is "necessarily present" in a cited reference. Inherency may not be established based on probabilities or possibilities. It is plainly improper to reject a claim on the basis of 35 U.S.C. § 102 based merely on the possibility that a particular prior art disclosure could or might be used or operated in the manner recited in the claim. *In re Robertson*, 169 F.3d 743, 49 U.S.P.Q. 2d 1949 (Fed. Cir. 1999).

It is respectfully submitted that the Action from which this appeal is taken does not meet these burdens.

Claim 1 is not anticipated by Drummond

Claim 1 is rejected under 35 U.S.C. § 102(b) as being anticipated by Drummond.

Claim 1

Drummond does not anticipate claim 1. The relied upon sections of Drummond do not teach the recited steps. For example, where does Drummond teach moving a display screen in the manner recited in step (d)? Where does Drummond teach the features and relationships of storing data corresponding to a characteristic feature *and* an interface parameter for each of a plurality of users; responsive to sensing a characteristic feature of a user, determining a stored interface parameter associated with the user; and responsive to the interface parameter, moving a display screen with a moving device?

Appellants have shown that Drummond does not teach each and every step of the claimed invention arranged in the manner recited in claim 1, as is required to sustain the rejection.

Appellants need not present all of the many reasons as to why Drummond does not anticipate claim 1. Thus, Appellants respectfully submit that the 35 U.S.C. § 102(b) rejection should be withdrawn.

The 35 U.S.C. § 103 (a) Rejections

The Applicable Legal Standards

Before a claim may be rejected on the basis of obviousness pursuant to 35 U.S.C. § 103, the Patent Office bears the burden of establishing that all the recited features of the claim are known in the prior art. This is known as *prima facie* obviousness. To establish *prima facie* obviousness, it must be shown that all the elements and relationships recited in the claim are known in the prior art. If the Office does not produce a *prima facie* case, then the Appellants are under no obligation to submit evidence of nonobviousness. MPEP § 2142.

The teaching, suggestion, or motivation to combine the features in prior art references must be clearly and particularly identified in such prior art to support a rejection on the basis of obviousness. It is not sufficient to offer a broad range of sources and make conclusory statements. *In re Dembiczak*, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999).

Even if all of the features recited in the claim are known in the prior art, it is still not proper to reject a claim on the basis of obviousness unless there is a specific teaching, suggestion, or motivation in the prior art to produce the claimed combination. *Panduit Corp. v. Denison Mfg. Co.*, 810 F.2d 1561, 1568, 1 USPQ2d 1593 (Fed. Cir. 1987). *In re Newell*, 891 F.2d 899, 901, 902, 13 USPQ2d 1248, 1250 (Fed. Cir. 1989).

Evidence of record must teach or suggest the recited features. An assertion of knowledge and common sense not based on any evidence in the record lacks substantial evidence support. *In re Zurko*, 258 F.3d 1379, 59 USPQ2d 1693 (Fed. Cir. 2001). Patentability determination must be based on evidence of record. *In re Lee*, 277 F.3d 1338, 61 USPQ2d 1430 (Fed. Cir. 2002).

It is respectfully submitted that the Action from which this appeal is taken does not meet these burdens.

The 35 U.S.C. § 103(a) Rejections are legally improper

Appellants traverse the rejections on the grounds that Appellants' claims recite features and relationships which are neither disclosed nor suggested in the prior art, and because there is no teaching, suggestion, or motivation cited so as to produce Appellants' invention. The features and relationships recited in Appellants' claims patentably distinguish over the applied references.

The only suggestion for the recited features and relationships is found in Appellants' own novel disclosure. It follows that the rejections are based solely on hindsight reconstruction of Appellants' claimed invention, which is legally impermissible and does not constitute a valid basis for a finding of obviousness. *In re Fritch*, 972 F.2d 1260, 23 USPQ2d 1780 (Fed. Cir. 1992).

The Office has not established a *prima facie* showing of obviousness. Additionally, it would not have been obvious to one having ordinary skill in the art to have combined the references as alleged to have produced the recited invention. Thus, Appellants respectfully submit the rejections are improper and should be withdrawn.

**Claims 2-23 Are Not Obvious Over
Drummond in view of Blumstein**

In the Action claims 2-23 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Drummond in view of Blumstein.

Appellants respectfully submit that Drummond lacks more of the recited features and relationships than the Action admits. The Action fails to provide all of the differences between the prior art and the recited claims in accordance with *Graham v. John Deere*, 383 U.S. 1, 148 USPQ 459 (1966). Because the Action has not properly conducted a *Graham v. John Deere Co.* analysis, it has not met the basic criteria for establishing a *prima facie* case of obviousness. Furthermore, Blumstein also does not teach or suggest these additional deficiencies.

Claim 2

The Action admits that Drummond fails to teach that a display screen is moved to change a height of the display screen. Blumstein cannot alleviate the admitted deficiencies of Drummond as it does not teach or suggest the recited features which are not found in Drummond. Where in the relied upon sections (col. 1, lines 41-43, and col. 3, lines 1-27) of Blumstein is there a teaching or suggestion of moving a display screen to change a height of the display screen, especially with a moving device responsive to at least one interface parameter?

The Action does not factually support any *prima facie* conclusion of obviousness. It would not have been obvious to one having ordinary skill in the art to have modified Drummond with the teachings of Blumstein as alleged to have produced the recited method.

Claim 3

The Action admits that Drummond fails to teach moving a display screen to change a tilt angle of the display screen. Blumstein does not teach or suggest the features that are admitted to be absent from Drummond. Blumstein at relied upon col. 3, lines 52-53 states "As a means of assisting screen orientation, a narrow width of the entire display periphery is responsive to touch

but is not associated with any of the quadrants." Where does Blumstein mention "tilt"? The Office has not established a *prima facie* showing of obviousness.

Claim 4

The Action admits that both Drummond and Blumstein fail to teach or suggest moving a display screen to change both a height and a tilt angle of the display screen. No other reference has been applied. The Action's assertions are not based on any evidence in the record. The rejection lacks substantial evidence support. *In re Zurko*, supra.

Claim 5

The Action alleges that Drummond alone teaches step (e). However, claim 5 was not rejected as anticipated by Drummond. Again, the Action has not provided all of the differences between Drummond and the recited claims in accordance with *Graham v. John Deere*. Thus, the Action procedurally fails to establish a *prima facie* case of obviousness.

As previously discussed (e.g., claim 1 remarks), Drummond does not teach or suggest step (d). It follows that Drummond cannot teach or suggest step (e), which is "responsive to" step (d)'s "operation of the computer". Blumstein also does not teach or suggest the recited features and relationships. The Office has not established a *prima facie* showing of obviousness.

Claim 6

Claim 6 depends from claim 5. Drummond does not teach or suggest the recited features and relationships, especially at the relied upon sections. The references, taken alone or in combination, further do not teach or suggest that the size of text material is determined responsive to at least one interface parameter in the manner recited.

Claim 7

Claim 7 depends from claim 5. The references, taken alone or in combination, further do not teach or suggest that the size of an icon is determined responsive to at least one interface parameter in the manner recited. The Office has not established a *prima facie* showing of obviousness.

Claim 8

Claim 8 depends from claim 5. The references, taken alone or in combination, further do not teach or suggest that the language of text material is determined responsive to at least one interface parameter in the manner recited. The Office has not established a *prima facie* showing of obviousness.

Claim 9

Claim 9 depends from claim 5. The references, taken alone or in combination, further do not teach or suggest that the size of a numeral is determined responsive to at least one interface parameter in the manner recited. The Office has not established a *prima facie* showing of obviousness.

Claim 10

Claim 10 depends from claim 5. The references, taken alone or in combination, further do not teach or suggest that a color is determined responsive to at least one interface parameter in the manner recited. The Office has not established a *prima facie* showing of obviousness.

Claim 11

Claim 11 depends from claim 5. The references, taken alone or in combination, further do not teach or suggest that a sequence of outputs is determined responsive to at least one

interface parameter in the manner recited. The Office has not established a *prima facie* showing of obviousness.

Claim 12

The references, taken alone or in combination, further do not teach or suggest controlling an audio output device responsive to at least one interface parameter in the manner recited. The Office has not established a *prima facie* showing of obviousness.

Claim 13

Claim 13 depends from claim 12. The Action admits that both Drummond and Blumstein fail to teach or suggest that the volume of an audio output device is controlled responsive to at least one interface parameter in the manner recited. The rejection lacks substantial evidence support. *In re Zurko*, supra.

Claim 14

Claim 14 depends from claim 12. The references, taken alone or in combination, further do not teach or suggest connecting a portable audio output device to a connector in the manner recited. The Office has not established a *prima facie* showing of obviousness.

Claim 15

Claim 15 depends from claim 14. The Action admits that both Drummond and Blumstein fail to teach or suggest that the connector (of claim 14) includes an IR connector. The rejection lacks substantial evidence support. *In re Zurko*, supra.

Claim 16

Claim 16 depends from claim 12. The applied prior art is devoid of any such teaching, suggestion, or motivation for combining features of the references so as to produce the recited

invention. It would not have been obvious to one having ordinary skill in the art to have combined the references as alleged to make a handset accessible to a user in the manner recited to have produced the recited invention.

Claim 17

Claim 17 depends from claim 12. The references, taken alone or in combination, further do not teach or suggest generating white noise in the manner recited. The Office has not established a *prima facie* showing of obviousness.

Claim 18

The references, taken alone or in combination, further do not teach or suggest controlling at least one audio *input* device responsive to at least one interface parameter in the manner recited. The Office has not established a *prima facie* showing of obviousness.

Claim 19

Claim 19 depends from claim 18. The applied prior art is devoid of any such teaching, suggestion, or motivation for combining features of the references so as to produce the recited invention. It would not have been obvious to one having ordinary skill in the art to have combined the references as alleged to make a handset accessible to a user in the manner recited to have produced the recited invention.

Claim 20

The references, taken alone or in combination, further do not teach or suggest activating input capability of a tactile input device responsive to at least one interface parameter in the manner recited. The Office has not established a *prima facie* showing of obviousness.

Claim 21

Claim 21 depends from claim 20. The references, taken alone or in combination, further do not teach or suggest activating input capability of a tactile input device including a keypad responsive to at least one interface parameter in the manner recited. The Office has not established a *prima facie* showing of obviousness.

Claim 22

Claim 22 depends from claim 21. The references, taken alone or in combination, further do not teach or suggest activating input capability of a tactile input device including a keypad responsive to at least one interface parameter, especially where inputs to the keypad are operative to control at least one transaction function device operative to dispense cash. The Office has not established a *prima facie* showing of obviousness.

Claim 23

Claim 23 depends from claim 19. The references, taken alone or in combination, further do not teach or suggest rendering the display screen inoperative to showing transaction information responsive to at least one interface parameter in the manner recited. The Office has not established a *prima facie* showing of obviousness.

Claims 24-31 Are Not Obvious Over Drummond in view of Blumstein and Ramachandran

In the Action claims 24-31 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Drummond in view of Blumstein and Ramachandran (US Patent 6,023,688).

Claim 24

Where do the references teach or suggest a link between an appearance feature of a user and moving a display screen in the manner recited? It would not have been obvious to one having ordinary skill in the art to have modified Drummond/Blumstein with the alleged teaching of Ramachandran to have produced the recited method.

Claim 25

Claim 25 depends from claim 24. Where do the combined references teach or suggest a link between facial appearance and moving a display screen in the manner recited? It would not have been obvious to one having ordinary skill in the art to have modified Drummond/Blumstein with the alleged teaching of Ramachandran to have produced the recited method.

Claim 26

Claim 26 depends from claim 24. Where do the combined references teach or suggest a link between eye appearance and moving a display screen in the manner recited? It would not have been obvious to one having ordinary skill in the art to have modified Drummond/Blumstein with the alleged teaching of Ramachandran to have produced the recited method.

Claim 27

Claim 27 depends from claim 24. Where do the combined references teach or suggest a link between a fingerprint and moving a display screen in the manner recited? Furthermore, Ramachandran appears to teach against using fingerprints because of customer concerns (col. 2, lines 1-9). It would not have been obvious to one having ordinary skill in the art to have modified Drummond/Blumstein with the alleged teaching of Ramachandran to have produced the recited method.

Claim 28

Claim 28 depends from claim 24. Where do the combined references teach or suggest a link between both an appearance feature and a voice feature to moving a display screen? Again, it would not have been obvious to one having ordinary skill in the art to have modified the references as alleged to have produced the recited method.

Claim 29

The combined references do not teach or suggest that at least one characteristic feature for each user includes data included on a user-carryable article. Where do the references teach or suggest a link between user-carryable article data and moving a display screen? It would not have been obvious to one having ordinary skill in the art to have modified Drummond/Blumstein with the alleged teaching of Ramachandran to have produced the recited method.

Claim 30

Claim 30 depends from claim 29. Where do the combined references teach or suggest a link between account number data included on a user-carryable article and moving a display screen? Again, it would not have been obvious to one having ordinary skill in the art to have modified the references as alleged to have produced the recited method.

Claim 31

Where do the references teach or suggest a link between a user voice feature and moving a display screen? It would not have been obvious to one having ordinary skill in the art to have modified Drummond/Blumstein with the alleged teaching of Ramachandran to have produced the recited method.

**Claims 32 and 37-43 Are Not Obvious Over
Drummond in view of Blumstein and Ramachandran**

In the Action claims 32 and 37-43 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ramachandran (US Patent 6,023,688).

Claim 32

Ramachandran does not teach or suggest the recited apparatus. For example, Ramachandran does not teach or suggest a display screen movement mechanism that is in operative connection with a movably mounted display screen and can move the display screen. Nor do the references teach or suggest causing the display screen movement mechanism to move the display screen responsive to at least one interface parameter associated with a sensed characteristic feature of a user. Where does Ramachandran teach or suggest an automated financial transaction apparatus with the structural ability to cause a movement mechanism to move a display screen in response to an interface parameter, where the interface parameter was associated with a user in response to the sensing of a characteristic feature associated with the user?

The Action admits (on page 15) that Ramachandran does not teach or suggest "a movable mounted display screen". No other reference has been applied. The Action's assertions are not based on any evidence in the record. The rejection lacks substantial evidence support. *In re Zurko*, supra. Also, it is unclear how the Action's apparently relied upon movable "image signals" can constitute a "movably *mounted* display screen". The Office has not established a *prima facie* showing of obviousness.

Claim 37

Appellants' remarks in support of the patentability of claim 32 are incorporated herein by reference. For reasons previously discussed, Ramachandran does not teach or suggest the recited apparatus. Where does Ramachandran teach or suggest an automated financial transaction apparatus having the structural ability to sense a user's characteristic feature and to cause a movement mechanism to move a movably mounted display screen to a position corresponding to an interface parameter associated with the characteristic feature?

Furthermore, as the Action admits that Ramachandran alone does not teach or suggest all of the recited features and relationships, the rejection lacks substantial evidence support. *In re Zurko*, supra. The Office has not established a *prima facie* showing of obviousness.

Claim 38

Appellants' remarks in support of the patentability of claims 32 and 37 are incorporated herein by reference. For reasons previously discussed, Ramachandran does not teach or suggest the recited apparatus. Where does Ramachandran teach or suggest an automated financial transaction apparatus that has the structural ability to receive data indicative of a user characteristic feature and, responsive thereto, determine a user interface parameter and cause the display screen to selectively either operate or not operate responsive to the user interface parameter? The Office has not established a *prima facie* showing of obviousness.

Claim 39

Claim 39 depends from claim 38. As previously discussed, Ramachandran does not teach or suggest a display screen movement mechanism. Where does Ramachandran even teach or suggest a display screen that can be moved? The Office has not established a *prima facie* showing of obviousness.

Claim 40

Claim 40 depends from claim 39. Ramachandran further does not teach or suggest a movement mechanism that can change an angle of view of a display screen. Furthermore, as the Action admits that Ramachandran alone does not teach or suggest all of the recited features and relationships, the rejection lacks substantial evidence support. *In re Zurko*, supra. Again, the Office has not established a *prima facie* showing of obviousness.

Claim 41

Ramachandran further does not teach or suggest an automated financial transaction apparatus with the ability to receive data related to at least one user characteristic feature and, responsive thereto, cause a display screen to selectively either operate or not operate responsive to at least one user interface parameter corresponding to the at least one characteristic feature, especially where the at least one characteristic feature comprises a biometric input. Again, the Office has not established a *prima facie* showing of obviousness.

Claim 42

Ramachandran further does teach or suggest an automated financial transaction apparatus with the ability to receive data related to at least one user characteristic feature and, responsive thereto, cause a display screen to selectively either operate or not operate responsive to at least

one user interface parameter corresponding to the at least one characteristic feature, especially where the at least one characteristic feature comprises a wireless signal from a portable device. Again, the Office has not established a *prima facie* showing of obviousness.

Claim 43

Claim 43 depends from claim 40/39/38. Ramachandran further does not teach or suggest an automated financial transaction apparatus comprising a movement mechanism that can change a vertical height of a display screen, especially responsive to at least one user interface parameter. Furthermore, as the Action admits that Ramachandran alone does not teach or suggest all of the recited features and relationships, the rejection lacks substantial evidence support. *In re Zurko*, supra. Again, the Office has not established a *prima facie* showing of obviousness.

Claims 33-36 Are Not Obvious Over Ramachandran in view of Drummond

In the Action claims 33-36 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ramachandran (US Patent 6,023,688) in view of Drummond.

Claim 33

The combined references do not teach or suggest the recited movement mechanism. Where do the references teach or suggest enabling changing the height and tilt angle of a display screen responsive to at least one interface parameter associated with a user? The Office has not established a *prima facie* showing of obviousness.

Claim 34

The combined references further do not teach or suggest, responsive to at least one interface parameter, enabling operation of a transaction function device (including at least one of a cash dispenser and a cash acceptor) responsive to at least one input to a tactile input device.

Again, the Office has not established a *prima facie* showing of obviousness.

Claim 35

The combined references further do not teach or suggest, responsive to at least one interface parameter, causing operation of a transaction function device (including at least one of a cash dispenser and a cash acceptor) responsive to at least one input to an audio input device. The Office has not established a *prima facie* showing of obviousness.

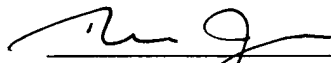
Claim 36

The combined references further do not teach or suggest the ability to sense a characteristic appearance feature of a user with a reading device including an imaging device, and the ability to move a display screen responsive to the reading device sensing. The Office has not established a *prima facie* showing of obviousness.

CONCLUSION

Each of Appellants' pending claims specifically recites features, relationships, and/or steps that are neither disclosed nor suggested in any of the applied prior art. Furthermore, the applied prior art is devoid of any teaching, suggestion, or motivation for combining features of the applied prior art so as to produce the recited invention. For these reasons it is respectfully submitted that all the pending claims are allowable.

Respectfully submitted,



Ralph E. Jocke
WALKER & JOCKE
231 South Broadway
Medina, Ohio 44256
(330) 721-0000

Reg. No. 31,029

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CLAIMS APPENDIX

1. A method comprising:
 - a) storing in at least one data store in operative connection with at least one computer, data corresponding to a plurality of users, and for each one of the plurality of users, at least one characteristic feature and at least one interface parameter;
 - b) sensing with a reading device in operative connection with an automated financial transaction apparatus, at least one characteristic feature of a user adjacent to the apparatus;
 - c) determining through operation of the computer responsive to the at least one characteristic feature, the at least one interface parameter associated with the user in the data store;
 - d) moving through operation of the computer, a display screen included on the automated financial transaction apparatus with a moving device responsive to the at least one interface parameter associated with the user.
2. The method according to claim 1 wherein in step (d) the display screen is moved to change a height of the display screen.

3. The method according to claim 1 wherein in step (d) the display screen is moved to change a tilt angle of the display screen.
4. The method according to claim 1 wherein in step (d) the display screen is moved to change both a height and a tilt angle of the display screen.
5. The method according to claim 1 and further comprising:
 - e) providing responsive to operation of the computer, at least one output through the display screen responsive to the at least one interface parameter associated with the user.
6. The method according to claim 5 wherein in step (e) the at least one output includes text material, and wherein size of the text material included in the at least one output is determined responsive to the at least one interface parameter.
7. The method according to claim 5 wherein in step (e) the at least one output includes an icon, and wherein size of the icon included in the at least one output is determined responsive to the at least one interface parameter.

8. The method according to claim 5 wherein in step (e) the at least one output includes text material, and wherein language of the text material is determined responsive to the at least one interface parameter.
9. The method according to claim 5 wherein in step (e) the at least one output includes at least one numeral, and wherein size of the at least one numeral is determined responsive to the at least one interface parameter.
10. The method according to claim 5 wherein in step (e) the at least one output includes at least two colors, and wherein at least one of the colors is determined responsive to the at least one interface parameter.
11. The method according to claim 5 wherein in step (e) a sequence comprising a plurality of outputs is presented, and wherein the sequence is determined responsive to the at least one interface parameter.
12. The method according to claim 1 and further comprising:
 - e) controlling at least one audio output device in operative connection with the apparatus, responsive to the at least one interface parameter associated with the user.

13. The method according to claim 12 wherein in step (e) the volume of the at least one audio output device is controlled responsive to the at least one interface parameter.
14. The method according to claim 12 and prior to step (e) further comprising the step of:

connecting a portable audio output device associated with the user to a connector in operative connection with the apparatus.
15. The method according to claim 14 wherein in the connecting step the connector includes an IR connector.
16. The method according to claim 12 wherein step (e) includes making a handset accessible to the user.
17. The method according to claim 12 wherein step (e) includes generating white noise through the at least one audio output device.
18. The method according to claim 1 and further comprising:

e) controlling at least one audio input device in operative connection with the apparatus, responsive to the at least one interface parameter associated with the user.

19. The method according to claim 18 wherein step (e) includes making a handset accessible to the user.
20. The method according to claim 1 and further comprising:
 - e) activating input capability of at least one tactile input device in operative connection with the apparatus, responsive to the at least one interface parameter associated with the user.
21. The method according to claim 20 wherein the tactile input device includes a keypad, wherein in step (e) inputs to the keypad are operative to control at least one transaction function device in operative connection with the computer.
22. The method according to claim 21 wherein the at least one transaction function device is operative to dispense cash.
23. The method according to claim 19 and further comprising:
 - f) rendering the display screen inoperative to show transaction information responsive to the at least one interface parameter associated with the user.

24. The method according to claim 1 wherein in step (a) the at least one characteristic feature for each user corresponds to an appearance feature.
25. The method according to claim 24 wherein in step (a) the appearance feature includes at least one feature of facial appearance.
26. The method according to claim 24 wherein in step (a) the appearance feature includes eye appearance.
27. The method according to claim 24 wherein in step (a) the appearance feature includes at least a portion of at least one fingerprint.
28. The method according to claim 24 wherein in step (a) at least one characteristic feature for each user corresponds to both an appearance feature and a voice feature.
29. The method according to claim 1 wherein in step (a) the at least one characteristic feature for each user includes data included on an article adapted to be carried by the user.
30. The method according to claim 29 wherein in step (a) the data corresponds to an account number associated with the user.

31. The method according to claim 1 wherein in step (a) at least one characteristic feature of each user corresponds to a voice feature of the user.

32. An automated financial transaction apparatus comprising:

a reading device operative to sense at least one characteristic feature usable to identify a user;

a movably mounted display screen;

a movement mechanism in operative connection with the display screen;

at least one computer in operative connection with at least one data store, the reading device and the movement mechanism, wherein the data store includes data corresponding to a plurality of users, and for each of the plurality of users, an associated at least one characteristic feature and at least one interface parameter;

wherein the computer is operative to cause the movement mechanism to move the display screen responsive to at least one interface parameter associated in the data store with a first user among the plurality of users, responsive to the reading device sensing the at least one characteristic feature associated in the data store with the first user.

33. The apparatus according to claim 32 wherein the movement mechanism enables changing the height and tilt angle of the display screen, and wherein the height and tilt angle are changed through operation of the computer responsive to the at least one interface parameter associated with the first user.
34. The apparatus according to claim 32 and further comprising a tactile input device and a transaction function device, the transaction function device including at least one of a cash dispenser and a cash acceptor, and wherein the computer is operative responsive to the at least one interface parameter to enable the transaction function device to operate responsive to at least one input to the tactile input device.
35. The apparatus according to claim 32 and further comprising an audio input device, and a transaction function device, wherein the transaction function device includes at least one of a cash dispenser and a cash acceptor, and wherein the computer is operative responsive to the at least one interface parameter to cause the transaction function device to operate responsive to at least one input to the audio input device.
36. The apparatus according to claim 32 wherein the reading device includes an imaging device, wherein the characteristic feature sensed by the reading device includes an appearance feature of a user.

37. An automated financial transaction apparatus comprising:

a reading device operative to sense at least one characteristic feature associated with each of a plurality of users;

a movably mounted display screen;

a movement mechanism in operative connection with the display screen;

a computer in operative connection with a data store, the computer also in operative connection with the reading device and the movement mechanism, wherein the data store includes data corresponding to a plurality of characteristic features, wherein at least one of the characteristic features corresponds to at least one of the plurality of users, and for each one of the characteristic features at least one associated interface parameter, wherein the interface parameter corresponds to a position of the display screen;

wherein the computer is operative responsive to the reading device sensing a first characteristic feature corresponding to one of the plurality of users, to cause the movement mechanism to move the display screen to a position corresponding to an interface parameter associated in the data store with the first characteristic feature.

38. An automated financial transaction apparatus comprising:

a device operative to receive data indicative of at least one characteristic feature corresponding to a user;

a display screen;

at least one computer in operative connection with at least one data store, wherein the data store includes data representative of a plurality of characteristic features, and for each characteristic feature, a corresponding user and at least one interface parameter, and wherein the computer is operative responsive to the device receiving data indicative of at least one first user characteristic feature, to determine data corresponding to a first user and at least one first user interface parameter, and to cause the display screen to selectively either operate or not operate responsive to the at least one first user interface parameter.

39. The apparatus according to claim 38 and further comprising a movement mechanism, and wherein the computer is operative when the display screen is to be operated, to cause the movement mechanism to move the display screen responsive to the determined at least one first user interface parameter.

40. The apparatus according to claim 39 wherein the movement mechanism changes an angle of view of the display screen.
41. The apparatus according to claim 38 wherein the at least one characteristic feature comprises a biometric input.
42. The apparatus according to claim 38 wherein the at least one characteristic feature comprises a wireless signal from a portable device.
43. The apparatus according to claim 40 wherein the movement mechanism changes vertical height of the display screen.

(ix)

EVIDENCE APPENDIX

(None)

(x)

RELATED PROCEEDINGS APPENDIX

(None)